

REMARKS

Applicant wishes to thank the Examiner for reviewing the present application.

A total of 10 claims remain in the present application. The foregoing claim amendments are presented in response to the Decision on Appeal mailed November 1, 2010, wherefore reconsideration of this application is requested. A Request for Continued Examination (RCE) has been filed simultaneously with this paper to ensure entry and consideration of amended claim 44.

By way of the above-noted amendments, claim 44 has been amended to address the Examiner's rejection of that claim under 35 U.S.C. § 112. In particular, claim 44 has been amended to explicitly define a limitation "wherein the plurality of basic functional components include one or more of a group consisting of at least one optical tap, at least one PIN detector, at least one erbium-doped fiber amplifier (EDFA), at least one dynamic gain flattened filter (DGFF), and at least one dispersion compensation module (DCM)". Support for this amendment may be found at FIGs. 1, 2A and 2B, and at pages 14-16 of the originally filed specification. Accordingly, it is believed that no new subject matter has been introduced.

Turning now to the text of the Decision on Appeal:

- The Examiner's rejection of claims 1-3, 15, 39, 40, 42 and 44 under 35 U.S.C. § 103(a) as unpatentable over the teaching of Ho and Seydnejad has been reversed;
- The Examiner's rejection of claims 41 and 43 under 35 U.S.C. § 103(a) as unpatentable over the teaching of Ho, Seydnejad and Fatchi has been reversed; and
- The Examiner's rejection of claim 44 under 35 U.S.C. § 112 (second paragraph) has been affirmed.

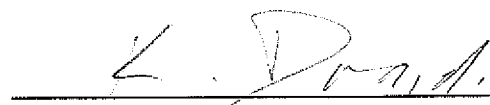
Applicant notes that the BPAI's affirmation of the 35 U.S.C. § 112 rejection of claim 44 is based on the wording of claim 44 without applicant's amendment of August 9, 2006 – entry of which was refused by the Examiner on the ground that it would require further search and consideration (Advisory Action mailed August 29, 2006). The present amendment traverses the

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rejection of claim 44 by re-introducing applicant's amendment of August 9, 2006, along with a Request for Continued Examination to ensure entry and consideration of the amended claim wording.

In view of the foregoing, it is believed that all of claims 1-3, 15 and 39-44 are in condition for allowance. Early reconsideration and allowance of the present application is therefore requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "K. Daniels", is written over a horizontal line.

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